

Initial Remarks

This Response to Restriction Requirement was due February 19, 2005, which was a Saturday. This Response is being filed the following Monday and therefore is timely without an extension.

Should the Examiner maintain the Restriction or any portion of it, Applicant requests that the Examiner notify Applicant so that Applicant may file corresponding system claims for the elected group or for groups I and II prior to an action on the merits. Applicant thanks the Examiner for the notice.

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Remarks

Claims 1-109 are pending. The Examiner restricted claims 1-109 to the following groups.

- I. Claims 1-22 drawn to a method for routing media.
- II. Claims 23-33 drawn to a method for routing media.
- III. Claims 34-68 drawn to a method for providing media for routing.
- IV. Claims 69-109 drawn to a method for processing routing.

Applicant traverses the restriction and provisionally elects Group 1, claims 1-22.

Applicant believes, at a minimum, groups I and II should be prosecuted together.

Applicant therefore further provisionally elects groups I and II.

There are two criteria for a proper requirement for restriction: (1) more than one invention is claimed and the inventions are independent or distinct as claimed and (2) there must be a serious burden on the examiner if restriction is required. MPEP 803.01. If the search and examination of an entire application or a set of claims can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP 803.01.

At a minimum, there would be no burden on the examiner to search and examine the claims in groups I and II. Groups I and II contain only three independent claims and 33 total claims.

Further, the independent claims in groups I and II define many same essential features. Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required. MPEP 806.03. This is because the claims are but different definitions of the same disclosed subject matter varying in breadth or scope of definition. MPEP 806.03.

Further, independent claim 1 is a linking claim for Groups I and II. Linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. MPEP 809.

The Examiner stated the inventions are distinct because they are separately usable. The Examiner said the inventions are separately usable because they are classified in separate classes and sub-classes. The Examiner further stated that the search required for each group is different and not co-extensive for examination purposes because the groups are in different

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classes and sub-classes. These are the only reasons given by the Examiner. The Examiner's argument is circular.

The claims should not be grouped in separate sub-classes. Separate searches are not required for the claims.

The Examiner has not demonstrated that the claims should be grouped in four class and sub-class combinations. The Examiner has not shown that the groups are sub-combinations. The claims should not be grouped by the Examiner as sub-combinations.

Applicant has demonstrated that all claims should be prosecuted in one application and not restricted. At a minimum, Applicant has demonstrated that the claims in groups I and II should be prosecuted together.

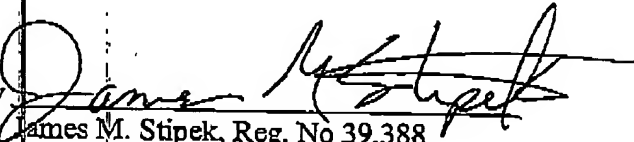
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This is intended to be a complete response to the Examiner's Restriction Requirement mailed on January 19, 2005.

Respectfully Submitted,

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By


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